

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v

Case No. 17-20459-02

Honorable Thomas L. Ludington

Magistrate Judge Patricia T. Morris

D-2, MELVIN LEE PULLEY,

Petitioner-Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING  
PETITIONER'S MOTION TO VACATE, DENYING CERTIFICATE  
OF APPEALABILITY AND DENYING LEAVE TO PROCEED  
IN FORMA PAUPERIS ON APPEAL**

On July 5, 2017, Petitioner Melvin Lee Pulley was indicted on one count of sex trafficking of children in violation of 18 U.S.C. §1591. ECF No. 1. On January 26, 2018 Petitioner pleaded guilty pursuant to a Rule 11 Plea Agreement. ECF No. 33. On May 24, 2018, the Court sentenced Petitioner to 190 months imprisonment and 5 years of supervised. On May 28, 2019, Petitioner filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. ECF No. 77. The motion was referred to Magistrate Judge Morris who issued a report recommending that Petitioner's motion be denied. ECF Nos. 79, 95.

Although Judge Morris's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Petitioner nor Respondent filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. Accordingly, a certificate of appealability is not warranted in this case.

The Court further concludes that Petitioner should not be granted leave to proceed *in forma pauperis* on appeal, as any appeal would be frivolous. *See* Fed. R. App. P. 24(a).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 95, is **ADOPTED**.

It is further **ORDERED** that Petitioner's motion to vacate his sentence, ECF No. 77, is **DENIED**.

It is further **ORDERED** that a certificate of appealability is **DENIED**.

It is further **ORDERED** that leave to proceed *in forma pauperis* on appeal is **DENIED**.

Dated: September 4, 2019

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Melvin Lee Pulley** #55743-039, HAZELTON U.S. PENITENTIARY, Inmate Mail/Parcels, P.O. BOX 5000, BRUCETON MILLS, WV 26525 by first class U.S. mail on September 4, 2019.

s/Kelly Winslow  
KELLY WINSLOW, Case Manager